

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION

Larry Jerome Rainey,) C/A No. 0:17-cv-02773-DCC
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Plaintiff,)
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v.)
)
)
Sgt. D. Clark,) ORDER
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Defendant.)
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_____)

This matter is before the Court on Plaintiff's Complaint alleging violations of civil rights pursuant to 42 U.S.C. § 1983. ECF No. 1. In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2), (D.S.C.), this matter was referred to United States Magistrate Judge Paige J. Gossett for pre-trial proceedings. On November 20, 2017, after learning that Plaintiff died in prison, the Magistrate issued an order directing the appropriate party for the decedent to file a motion for substitution pursuant to Rule 25 of the Federal Rules of Civil Procedure within 90 days of the date of that order.¹ ECF No. 12. There was no response to the order. On February 21, 2018, the Magistrate Judge issued a Report and Recommendation ("Report") recommending that this action be dismissed with prejudice for failure to comply with Rule 25. ECF No. 14. The Magistrate Judge advised Plaintiff of the procedures and requirements for filing objections to the Report and the serious consequences if he failed to do so. Neither plaintiff nor any appropriate party has filed objections, and the time to do so has passed.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has

¹The Magistrate Judge's Report notes that the order was sent to Plaintiff's last address and to his next of kin as provided by the South Carolina Department of Corrections.

no presumptive weight, and the responsibility to make a final determination remains with the Court.

See Mathews v. Weber, 423 U.S. 261 (1976). The Court is charged with making a *de novo* determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The Court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* U.S.C. § 636(b). The Court will review the Report only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of timely filed objection, a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” (citation omitted)).

After considering the record in this case, the applicable law, and the Report of the Magistrate Judge, the Court finds no clear error and agrees with the Report’s recommendation that the Complaint be dismissed. Accordingly, the Court adopts the Report by reference in this Order. The Complaint is dismissed with prejudice.

IT IS SO ORDERED.

s/ Donald C. Coggins, Jr.
United States District Judge

March 15, 2018
Spartanburg, South Carolina